

OGC 8-4123 LKH
TSW

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OGC Has Reviewed

16 January 1958

MEMORANDUM FOR: Mr. Houston

SUBJECT: Veterans Preference Rights of Probationary Employees

1. You have asked me to look into the question of whether or not an employee with veteran's status who has not completed his one-year probationary period is entitled to veteran's preference rights.

2. With respect to veteran's preference employees 5 USCA 863 provides that:

"No permanent or indefinite preference eligible, who has completed a probationary or trial period employed in the civil service, . . . hereinbefore referred to shall be discharged, suspended for more than thirty days, furloughed without pay, reduced in rank or compensation, or debarred for future appointment except for such cause as will promote the efficiency of the service and for reasons given in writing,"

The inference, of course, is that a veteran who has not completed his probationary period shall not be entitled to veteran's preference. In this connection, the Federal Personnel Manual, Chapter Sl-13, provides in part as follows:

"A person serving a probationary or trial period may be separated, if the performance of his duties or his conduct is not satisfactory to the agency, by notifying him in writing of the reasons for his separation and its effective date."

Chapter Z1-243 provides that:

"Any employee serving a probationary or trial period shall be given a full and fair trial in the performance of the duties of the position to which appointed. If the performance of his duties or his conduct is not satisfactory to the agency, his services shall be terminated by notifying him in writing of the reasons for his separation and of its effective date." (Emphasis supplied)

3. Agency Regulation provides in part as follows:

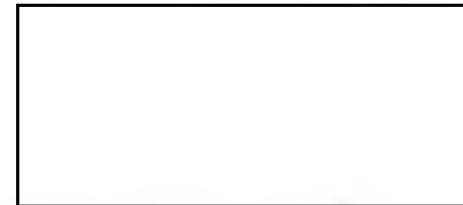
"The trial period should be fully utilized as a weeding-out period to determine the capacity of a new employee. Supervisors should pay particular attention to the employee's performance, progress, and growth potential during this period and report these items in detail on the Fitness Report prepared prior to completion

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of the trial period. An employee who fails to demonstrate qualifications for his position or otherwise manifests unsuitability for Agency employment during his trial period will be separated by the action 'Separation (Disqualification).'"

4. It may therefore be stated that a probationary employee with veteran's status has no veteran's preference rights prior to the completion of his one-year probationary period.

5. An informal check on this matter was made with Mr. Karl Ruediger of the Office of General Counsel, Civil Service Commission (code 129, ext 5275), who confirmed the conclusion reached in the preceding paragraph.



Assistant General Counsel

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—Orig = Subject *Rev. 16*

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